

REMARKS/ARGUMENTS

In reference to the non-final office action dated March 18, 2008 the following remarks/arguments are submitted.

The finality of the election requirement previously made by the Examiner is noted. The applicant reserves the right to file a divisional application or applications based on the non-elected claims.

The Examiner's objection to the specification and the informalities contained therein is noted. A substitute copy of the specification along with a marked copy of the specification are being filed herewith. Removal of the objection is respectfully requested with the next communication from the US Patent Office.

Claims 28-30 and 52 remain in the application. Claims 1-27 and 31-51 have been cancelled. New claims 53-55 have been added.

The Examiner has objected to claims 28-30 and 52 for informalities. Specifically the spelling of "Legionella Pneumophila", the claims have been amended to be consistent with the specification. Claim 29 was objected to for a minor informality and has been amended to read "...formed from a mixture of two or more fibers." We respectfully request that the objections to claims 28-30 and 52 be removed.

Claims 28-30 and 52 are rejected under 35 U.S.C. 112, second

paragraph as indefinite. The claim have been amended to more clearly define the claimed subject matter. Claim 28 has been amended to remove the ambiguity of artificial versus natural fibers. Likewise the grouping of fiber types in claim 28 has been amended to proper US Patent Office format. Claim 29 have been amended to clearly define and claim the percentages of one fiber type to an additional fiber type. Claim 52 has been amended to clearly define the "conventional" methods of manufacturing used for this invention. Given the above amendments to the claims removal of the rejection is respectfully requested.

Claims 28, 29 and 52 are rejected under 35 U.S.C. 102(b) as anticipated by Falder. Alternatively, the claims were also rejected under 35 U.S.C. 103(a) as obvious in view of Falder. The Falder application is directed to an anti-microbial composition which can be used to coat fibers used for a variety of functions including non woven fabrics.

Claims 28-30 and 52 are rejected under 35 U.S.C. 102(b) as anticipated by Foss. Alternatively, the claims were also rejected under 35 U.S.C. 103(a) as obvious in view of Foss. The Foss application is directed to a fiber or fabric treated with anti-microbial compounds which may used to prevent the spread of diseases.

Additionally, Claim 30 is rejected under 35 U.S.C. 103(a) as obvious over Falder in view of Foss.

In the applicant's claimed invention the fibers are treated with an anti-bacterial compound as described in the specification. The treatment of the fibers and the fabric that results therefrom, allows the anti-bacterial composition to remain effective at temperatures exceeding 200°C. Given that the applicant's claimed invention is effective in high temperatures at which Legionella is most likely to be found in aerosolized form is considerably different from both Falder and Foss.

The Falder application states in [para 107] "... The formulation is typically stable up to temperatures of 200°C..." Likewise the Foss application states in [para 232] "... The antimicrobial product withstands more than 50 washings at 80°C..." Additionally, Foss mentions the use of "higher loading" of antimicrobial agents at temperatures of "... between 180 to 230 degrees Fahrenheit..." (between 80-110°C). Both of the Falder and Foss teach away from the effectiveness of their products at temperatures exceeding 200°C, unlike the applicant's claimed invention.

Since Legionella is considered most dangerous in forms capable of being inhaled, the ability of the applicant's claimed invention to be efficacious at such high temperatures, assist in

Appl. No. 10/594,283

Our Docket: 15508NP

the elimination of the Legionella from the air and thereby reduce the likelihood that it can be inhaled. The ability of the applicant's claimed invention to be used at temperature whereby Legionella would be found in the air is a distinct advantage over the other mentioned applications which are not viable at high temperatures.

Given the referenced applications teach away from the idea of temperatures claimed in the applicant's invention, the claimed invention would not be obvious to one skilled in the art. In light of the foregoing it is respectfully requested that the rejections of the claims be removed and a subsequent notice of allowance be issued.

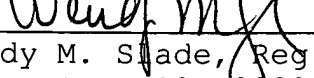
An earnest effort has been made to place this application in condition for formal allowance, which action is requested. Should the Examiner have any questions regarding the allowability of the claims, it is requested that an interview be granted with applicant's representative prior to taking any action that may be considered as final. Any fees necessitated by the filing of this response may be charged to Deposit Account 04-1577.

Appl. No. 10/594,283

Our Docket: 15508NP

Respectfully submitted,

DOWELL & DOWELL, P.C.

By 
Wendy M. Slade, Reg. No. 53,604
Date: June 18, 2008

DOWELL & DOWELL, P.C.
Suite 406, 2111 Eisenhower Avenue
Alexandria, VA 22314
Telephone - 703 415-2555
Facsimile - 703 415-2559
E-mail - dowell@dowellpc.com